

REMARKS

Applicant respectfully requests reconsideration.

Claims 1-9 and 11-42 were previously pending in this application, with claims 4-5, 7-9 and 15-41 withdrawn from consideration.

Claim 42 is cancelled without prejudice or disclaimer. Claim 1 is amended to include the limitation of claim 42, now cancelled.

As a result, claims 1, 6, and 11-14 are pending for examination with claim 1 being an independent claim.

No new matter has been added.

Rejection under 35 U.S.C. §103

Claims 1, 6, 11-14 and 42 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oefner (U.S. Patent No. 5,846,832).

Claim 1 is amended to recite the limitation of claim 42.

According to the Examiner, Oefner et al. teaches “plural side channels 156, 158 in a pattern that repeats from left to right ... to provide flow down the main channel.” The passages cited by the Examiner refer to an apparatus having a “tee” (or “T”), as illustrated in Figs. 2C and 2D, in which streams of the suspension comprising the nucleic acids of interest “are directed into the opposing (horizontal) arms of the tee, and the flow is conditioned as it changes direction to flow down the vertical arm.” Importantly, Oefner does not disclose a tapered channel having a plurality of side channels connected thereto between its first and second end. Rather, Oefner provides an apparatus in which channels 156 and 158 either are the main channel or exist at or upstream of the first end of the main channel. Channels 156 and 158 must carry the polymers being separated because there is no other channel for entry of the polymers. They are not located between the first and second end of the channel, however.

Moreover, placing these channels downstream of the first end, as now recited in amended claim 1, would not be obvious. Oefner teaches that the streams of suspension are forced into opposing arms because of the “T” configuration and that this “conditions” the flow. One of ordinary skill in the art is not motivated to position channels 156 and 158 between the first end of

the main channel in Oefner. One of ordinary skill in the art also would not have a reasonable expectation that such a modification could effect the conditioning required by Oefner.

For at least these reasons, Oefner does not render obvious the rejected claims, as now amended, and previously pending claim 42.

Reconsideration and withdrawal of this rejection is respectfully requested.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. C0989.70030US01.

Respectfully submitted,

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